60A.177 INVOLUNTARY TERMINATION OF AN AGENT BY THE INSURER.

Subdivision 1. **Termination review process.** An insurer shall establish a termination review process for an agent involuntarily terminated by the insurer. The review process is available for use at the option of the agent. The review process must be completed within 15 days of the request or before the date of termination, whichever is later.

Subd. 2. **Notice; hearing.** If an agent is terminated by an insurer, the agent may request a hearing before the board of review. If an insurer initiates the termination of an agent's agreement, the written notice of termination must advise the agent of the agent's right to a hearing before the board of review. Upon receipt of an agent's request for a hearing, the commissioner shall establish a hearing date within 30 days of the request or longer with the approval of the agent and the insurer. The agent and the insurer shall be notified in writing of the date, time, and place of the hearing. The hearing provided for under this section is not subject to chapter 14. The review board shall provide the parties to the hearing with an opportunity to present evidence and arguments in support of their respective positions.

Subd. 3. **Board of review.** A three-member board of review shall be selected from a list of ten agents and ten insurer representatives compiled by the commissioner. One member shall be selected by the agent and one by the insurer. The third member shall be mutually agreed upon by both parties. If the parties do not agree upon a third member, the commissioner shall request the American Arbitration Association to provide the commissioner with three names of potential members. If the American Arbitration Association declines to provide the names, the commissioner of the Bureau of Mediation Services shall provide the names. The agent member and the insurer member shall each strike one person from the list. The remaining person shall be selected as the third member of the review board. The insurer and the agent shall each pay one-half of the fee charged by the third member. The board member selected by the agent may not be a relative of the agent. The board members selected by the agent and insurer may not be presently or formerly associated with an insurer represented by the agent. An insurer is immune from civil liability to the agent for disclosures made at the hearing. This immunity does not extend to disclosures made in bad faith or with knowledge of their falseness.

Subd. 4. **Board's determination.** Upon completion of the hearing, the board of review shall determine if the termination of the agent's agreement is justified. If in the opinion of the board of review an involuntary termination is not justified, and in the absence of a reasonable contractual financial provision for termination as determined by the board, the board shall order the insurer to pay an amount of compensation that the board considers appropriate to the agent.

If in the opinion of the board of review a voluntary termination was not voluntary and the insurer is not justified in terminating the agent's agreement, and in the absence of a reasonable contractual financial provision for termination as determined by the board, the board shall order the insurer to pay an amount of compensation that the board considers appropriate to the agent.

Subd. 5. **Appeal.** A final determination of the board of review under subdivision 4 may be appealed to district court by either party for a trial de novo. If the insurer appeals and the agent prevails, the insurer is responsible for the agent's legal fees as approved by the court.

Subd. 6. **Civil penalty.** A person who intimidates or coerces a member of the board of review is subject to a civil penalty imposed by the commissioner in an amount not to exceed $25,000.

Subd. 7. **Exemption.** This section does not apply to an agent whose license has expired, is revoked, or is currently under suspension.

Subd. 8. **Administrative penalties.** Failure to comply with a final order or determination of the review board constitutes a basis for disciplinary action under section 45.027, subdivision 7.

History: *1990 c 457 s 2; 1991 c 207 s 2-5; 1992 c 379 s 2*